



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. Homer Garrison, Jr., Director
Department of Public Safety
Camp Mabry
Austin, Texas

Dear Sir:

Opinion No. Q-1600
Re: Department of Public Safety--
Appropriation--Purchase of uniforms for Mansion guards out of contingent expense appropriation.

This will acknowledge receipt of your letter of October 19, 1939, wherein you ask the opinion of this department upon the following question:

"Would it be permissible for this Department to purchase uniforms for four mansion guards as authorized in Senate Bill 427 of the Forty-sixth Legislature out of the contingent expenses of the Headquarters Division of this Department?"

Under the appropriation made by the 46th Legislature for the Main Division of the Department of Public Safety, there appears, under the general heading "Texas Rangers," provision for four mansion guards at \$1,200.00 each per annum. These items follow immediately after the enumeration of five captions, one sergeant and twenty-five privates in the Texas Ranger force, and immediately preceding an enumeration of ten criminal investigators under the same sub-heading.

At the end of the appropriation made for the main division of the Department of Public Safety, there appears, under the heading "Maintenance and Miscellaneous," item No. 5, which reads as follows:

"Postage, supplies, equipment, arms, wire communications, printing and contingent expenses; hospitalization and medical services when injured in line of duty, and funeral expenses when killed

in action; surety bonds, books, all necessary expenses of operating a police training school at Camp Mabry for training peace officers generally, and members of this department, and any other necessary departmental expenses, including initial equipment," the Legislature having provided \$37,750.00 per annum for this purpose.

It was apparently the intention of the Legislature that the four mansion guards authorized should be commissioned as Texas Rangers, for certainly it was contemplated that the mansion guards should have and be vested with sufficient authority to enable them to effectively serve as such guards, and the fact that provision is made for these positions under the general heading "Texas Rangers" is indicative of the legislative intent that these men be commissioned as Texas Rangers.

The first question to be determined, therefore, is whether the authority of the Department to provide uniforms for these men is governed by the provisions of Articles 6567 and 6568, R.C.S., 1925.

Article 6567 reads as follows:

"Each officer, non-commissioned officer, and private of said force shall furnish himself with a suitable horse, horse equipment, clothing, etc. If his horse is killed in action it shall be paid for by the State at a fair market value at the time when killed."

Article 6568 reads as follows:

"The State shall furnish each member of said force with one improved carbine and pistol at cost, the price of which shall be deducted from the first money due such officer or man, and shall furnish said force with rations of subsistence, camp equipage, and ammunition for the officers and men, and also forage for horses."

If these Articles were still in full force and effect, the Department of Public Safety would lack the authority, necessarily, to furnish these mansion guards, as Texas Rangers, with uniforms. However, in our opinion,

these Articles have been repealed by Acts 1935, 44th Legislature, page 444, Chapter 181, Section 10, Section 11, and Section 25.

By Sections 10 and 11 of Acts 1935, 44th Legislature, page 444, Chapter 181, the Legislature provided that the Department of Public Safety should be composed of three divisions, the Texas Rangers, the Texas Highway Patrol, and the Headquarters Division, and such other divisions as the Commission might deem necessary. By Section 11 the Texas Ranger force and its personal property, equipment and records were expressly transferred to and placed under the jurisdiction of the Department of Public Safety, and was expressly mentioned as constituting the Texas Rangers Division of said Department.

Section 25 of said Act provides as follows:

"The State of Texas shall provide the necessary buildings, offices and quarters for the department and its officers and employees in the City of Austin, Texas, and in such other places in the State as district headquarters shall be established, and it shall also provide for the equipment of the department and the divisions, bureaus and branches thereof, with the furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition, uniforms, appliances and materials necessary to the proper functioning and operation thereof." (Article 4413 (25) Vernon's Sayles Revised Civil Statutes.)

Section 29 of said Act provides:

"All laws or parts of laws inconsistent or conflicting with the provisions of this Act are hereby repealed."

In our opinion, there is a direct conflict between the provisions of Section 25 of the Act, and the Articles of the Revised Civil Statutes of 1925 above referred to, and, therefore, said Articles of the 1925 Revised Civil Statutes were expressly repealed by the later enactment.

Since, under the law as it now exists, the mansion guards as Texas Rangers may now be provided with uniforms, it becomes necessary to consider the second question, that

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is, whether an appropriation is available to the Department of Public Safety which may be used for that purpose. We are of the opinion that item 5 of your Maintenance and Miscellaneous appropriation, above quoted, may be used to defray the expenses of purchasing uniforms for these mansion guards, in the event the Department determines that it is necessary and advisable that these men be uniformed.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ R. W. Fairchild
 Assistant

RWF:pbp

/s/ Gerald C. Mann

Approved Opinion Committee
By: B.W.B., Chairman